

FILED

AUG 18 2008

RICHARD W. WILKINS
CLERK, UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**PETITION FOR A WRIT OF HABEAS CORPUS**Name Rhine John S
(Last) (First) (Initial)Prisoner Number A+ 50501-9Institutional Address ATaskadero 5711 East 2nd St
POB 7001 ATaskadero CA 93423-7001**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**John S Rhine

(Enter the full name of plaintiff in this action.)

VS.

ATASKADERO mgt-SMH" " Admissions" " Security" Julian Green Program

(Enter the full name of respondent(s) or jailor in this action)

CV**08****3939**

Case No.

(To be provided by the clerk of court)

**PETITION FOR A WRIT
OF HABEAS CORPUS****E-filing****JF****(PR)****Read Comments Carefully Before Filing In****When and Where to File**

You should file in the Northern District if you were convicted and sentenced in one of these counties: Alameda, Contra Costa, Del Norte, Humboldt, Lake, Marin, Mendocino, Monterey, Napa, San Benito, Santa Clara, Santa Cruz, San Francisco, San Mateo and Sonoma. You should also file in this district if you are challenging the manner in which your sentence is being executed, such as loss of good time credits, and you are confined in one of these counties. Habeas L.R. 2254-3(a).

If you are challenging your conviction or sentence and you were not convicted and sentenced in one of the above-named fifteen counties, your petition will likely be transferred to the United States District Court for the district in which the state court that convicted and sentenced you is located. If you are challenging the execution of your sentence and you are not in prison in one of these counties, your petition will likely be transferred to the district court for the district that includes the institution where you are confined. Habeas L.R. 2254-3(b).

1 Who to Name as Respondent

2 You must name the person in whose actual custody you are. This usually means the Warden or
3 jailor. Do not name the State of California, a city, a county or the superior court of the county in which
4 you are imprisoned or by whom you were convicted and sentenced. These are not proper
5 respondents.

6 If you are not presently in custody pursuant to the state judgment against which you seek relief
7 but may be subject to such custody in the future (e.g., detainees), you must name the person in whose
8 custody you are now and the Attorney General of the state in which the judgment you seek to attack
9 was entered.

10 A. INFORMATION ABOUT YOUR CONVICTION AND SENTENCE

11 1. What sentence are you challenging in this petition?

12 (a) Name and location of court that imposed sentence (for example; Alameda
13 County Superior Court, Oakland):

14 SAN Diego Superior SAN Diego
15 Court Location

16 (b) Case number, if known At 57501-9

17 (c) Date and terms of sentence 3-17-05

18 (d) Are you now in custody serving this term? (Custody means being in jail, on
19 parole or probation, etc.) Yes X No

20 Where?

21 Name of Institution: ATASKADERO St hosp

22 Address: P.O. Box 7001 ATASKADERO CA
23 93423

24 2. For what crime were you given this sentence? (If your petition challenges a sentence for
25 more than one crime, list each crime separately using Penal Code numbers if known. If you are
26 challenging more than one sentence, you should file a different petition for each sentence.)

27 3 Robberys with conviction
28 Appell in court on original charge
as only 2 Robberys / 1 witness threat
Removed

3. Did you have any of the following?

Arraignment: Yes ☒ No ☐

Preliminary Hearing: Yes ☒ No ☐

Motion to Suppress: Yes ☐ No ☒

4. How did you plead?

Guilty ☒ Not Guilty ☐ Nolo Contendere ☐

Any other plea (specify) _____

5. If you went to trial, what kind of trial did you have?

Jury ☐ Judge alone ☐ Judge alone on a transcript ☐

6. Did you testify at your trial? Yes ☐ No ☒

7. Did you have an attorney at the following proceedings:

(a) Arraignment Yes ☒ No ☐

(b) Preliminary hearing Yes ☒ No ☐

(c) Time of plea Yes ☒ No ☐

(d) Trial Yes ☐ No ☐

(e) Sentencing Yes ☒ No ☐

(f) Appeal Yes ☒ No ☐

(g) Other post-conviction proceeding Yes ☒ No ☐

8. Did you appeal your conviction? Yes ☒ No ☐

(a) If you did, to what court(s) did you appeal?

Court of Appeal Yes ☒ No ☐

Year: 06/03 Result: Dismissed and President + SEE 1983

Supreme Court of California Yes ☒ No ☐

Year: _____ Result: _____

Any other court Yes ☐ No ☐

Year: _____ Result: _____

(b) If you appealed, were the grounds the same as those that you are raising in this

petition? Yes _____ No ☒

(c) Was there an opinion? Yes ☒ No _____

(d) Did you seek permission to file a late appeal under Rule 31(a)?
Yes ☒ No _____

If you did, give the name of the court and the result:

Superior Court? never received
reply or subsequent mail etc

9. Other than appeals, have you previously filed any petitions, applications or motions with respect to this conviction in any court, state or federal? Yes _____ No ☒

[Note: If you previously filed a petition for a writ of habeas corpus in federal court that challenged the same conviction you are challenging now and if that petition was denied or dismissed with prejudice, you must first file a motion in the United States Court of Appeals for the Ninth Circuit for an order authorizing the district court to consider this petition. You may not file a second or subsequent federal habeas petition without first obtaining such an order from the Ninth Circuit. 28 U.S.C. §§ 2244(b).]

(a) If you sought relief in any proceeding other than an appeal, answer the following questions for each proceeding. Attach extra paper if you need more space.

I. Name of Court: Superior Court

Type of Proceeding: Wente Brief

Grounds raised (Be brief but specific):

a. Un Known never received

b. Copy from Appellate

c. Defenders After Legal

d. notes Sent

Result: _____ Date of Result: _____

II. Name of Court: Superior Court

Type of Proceeding: Extortion to file

Grounds raised (Be brief but specific): --

1 a. _____
2 b. _____
3 c. _____
4 d. _____

5 Result: _____ Date of Result: _____

6 III. Name of Court: _____

7 Type of Proceeding: _____

8 Grounds raised (Be brief but specific):

9 a. _____
10 b. _____
11 c. _____
12 d. _____

13 Result: _____ Date of Result: _____

14 IV. Name of Court: _____

15 Type of Proceeding: _____

16 Grounds raised (Be brief but specific):

17 a. _____
18 b. _____
19 c. _____
20 d. _____

21 Result: _____ Date of Result: _____

22 (b) Is any petition, appeal or other post-conviction proceeding now pending in any court?

23 Yes _____ No ☒

24 Name and location of court: _____

25 B. GROUNDS FOR RELIEF

26 State briefly every reason that you believe you are being confined unlawfully. Give facts to
27 support each claim. For example, what legal right or privilege were you denied? What happened?
28 Who made the error? Avoid legal arguments with numerous case citations. Attach extra paper if you

1 need more space. Answer the same questions for each claim.

2 [Note: You must present ALL your claims in your first federal habeas petition. Subsequent
3 petitions may be dismissed without review on the merits. 28 U.S.C. §§ 2244(b); McCleskey v. Zant,
4 499 U.S. 467, 111 S. Ct. 1454, 113 L. Ed. 2d 517 (1991).]

5 Claim One: Based on Competent Assistance
6 of Counsel

7 Supporting Facts: Right to fair and speedy
8 Trial not 14 mts Jail Awaiting Trial
9 with no Attempt made to locate
10 witnesses or them to present evidence

11 Claim Two: Corrcied Guilty plea on ABOVE
12 as no Support Investigation facts

13 Supporting Facts: there were all contacts
14 witnesses and vidio tapes never
15 contacted BY Attorney so no
16 choice exept make Guilty plea

17 Claim Three: At no Time can probation
18 report be used in court without dismissal

19 Supporting Facts: no Defence Supporting
20 facts about mental Health allagation
21 and no reliable probation facts
22 Reports as in VS VS Dunn

23 If any of these grounds was not previously presented to any other court, state briefly which
24 grounds were not presented and why:

25 It is my understanding that
26 Appellate Defenders refused to submit
27 ABove and other precedents on IAC
28 So Court of Appeals was not notified

1 List, by name and citation only, any cases that you think are close factually to yours so that they
2 are an example of the error you believe occurred in your case. Do not discuss the holding or reasoning
3 of these cases:

4 US VS Dunn

5 People vs GARCIA

6
7 Do you have an attorney for this petition?

Yes _____ No ☒

8 If you do, give the name and address of your attorney:
9 _____

10 WHEREFORE, petitioner prays that the Court grant petitioner relief to which s/he may be entitled in
11 this proceeding. I verify under penalty of perjury that the foregoing is true and correct.
12

13 Executed on 7-25-08
14 Date

John Rhine
Signature of Petitioner

15
16
17
18
19
20 (Rev. 6/02)

John Rhine
Unit 3 A+57501-9
Ataskadero St hosp
P.O. Box 700N
Ataskadero, CA 93423-7001

SANTA BARBARA CA 931

AUG 7

2008

Legal mail

Office of the clerk US Dist
Northern Dist of California
450 Golden Gate Ave
SAN FRANCISCO CA

9410:

2255 motion
RECEIVED

AUG 11 2008

RICHARD W. WIERING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CR

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